

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America

v.

Dzhokhar Tsarnaev

Defendant(s)

Case No. 13-2106-MAB

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 15, 2013 in the county of Suffolk in the District of Massachusetts, the defendant(s) violated:

Code Section

18 U.S.C. s 2332a(a)
18 U.S.C. s 844(i)

Offense Description

Use of a Weapon of Mass Destruction
Malicious Destruction of Property Resulting in Death

This criminal complaint is based on these facts:

See Attached Affidavit of Special Agent Daniel R. Genck

☒ Continued on the attached sheet.



Complainant's signature

Daniel R. Genck, Special Agent, FBI


Printed name and title

Sworn to before me and signed in my presence.

Date: 04/21/2013 @ 6:47 PM

City and state: Boston, Massachusetts

BROOKLINE


Judge's signature
Marianne B. Bowler
Printed name and title

AFFIDAVIT OF SPECIAL AGENT

I, Daniel R. Genck, being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed since 2009. I am currently assigned to one of the Boston Field Office's Counter-terrorism Squads. Among other things, I am responsible for conducting national security investigations of potential violations of federal criminal laws as a member of the Joint Terrorism Task Force ("JTTF"). During my tenure as an agent, I have participated in numerous national security investigations. I have received extensive training and experience in the conduct of national security investigations, and those matters involving domestic and international terrorism.
2. During my employment with the FBI, I have conducted and participated in many investigations involving violations of United States laws relating to the provision of material support to terrorism. I have participated in the execution of numerous federal search and arrest warrants in such investigations. I have had extensive training in many methods used to commit acts of terrorism contrary to United States law.
3. This affidavit is submitted in support of an application for a complaint charging **DZHOKHAR A. TSARNAEV** of Cambridge, Massachusetts ("**DZHOKHAR TSARNAEV**") with using a weapon of mass destruction against persons and property at the Boston Marathon on April 15, 2013, resulting in death. More specifically, I submit this affidavit in support of an application for a complaint charging **DZHOKHAR TSARNAEV** with (1) unlawfully using and conspiring to use a weapon of mass destruction (namely, an improvised explosive device) against persons and property within the United States used in interstate and foreign commerce and in an activity that affects interstate and foreign commerce, which offense and its results affected

interstate and foreign commerce (including, but not limited to, the Boston Marathon, private businesses in Eastern Massachusetts, and the City of Boston itself), resulting in death, in violation of 18 U.S.C. § 2332a; and (2) maliciously damaging and destroying, by means of an explosive, real and personal property used in interstate and foreign commerce and in an activity affecting interstate and foreign commerce, resulting in personal injury and death, in violation of 18 U.S.C. § 844(i).

4. This affidavit is based upon my personal involvement in this investigation, my training and experience, my review of relevant evidence, and information supplied to me by other law enforcement officers. It does not include each and every fact known to me about the investigation, but rather only those facts that I believe are sufficient to establish the requisite probable cause.

FACTS AND CIRCUMSTANCES

A. The Boston Marathon Explosions

5. The Boston Marathon is an annual race that attracts runners from all over the United States and the world. According to the Boston Athletic Association, which administers the Marathon, over 23,000 runners participated in this year's race. The Marathon has a substantial impact on interstate and foreign commerce. For example, based on publicly available information, I believe that the runners and their families -- including those who travel to the Boston area from other states and countries -- typically spend tens of millions of dollars each year at local area hotels, restaurants and shops, in the days before, during, and after the Marathon. In addition, a number of the restaurants and stores in the area near the finish line have special events for spectators.

6. The final stretch of the Boston Marathon runs eastward along the center of

Boylston Street in Boston from Hereford Street to the finish line, which is located between Exeter and Dartmouth Streets. Low metal barriers line both edges of the street and separate the spectators from the runners. Many businesses line the streets of the Marathon route. In the area near the finish line, businesses are located on both sides of Boylston Street, including restaurants, a department store, a hotel and various retail stores.

7. On April 15, 2013, at approximately 2:49 p.m., while the Marathon was still underway, two explosions occurred on the north side of Boylston Street along the Marathon's final stretch. The first explosion occurred in front of 671 Boylston Street and the second occurred approximately one block away in front of 755 Boylston Street. The explosive devices were placed near the metal barriers where hundreds of spectators were watching runners approach the finish line. Each explosion killed at least one person, maimed, burned and wounded scores of others, and damaged public and private property, including the streets, sidewalk, barriers, and property owned by people and businesses in the locations where the explosions occurred. In total, three people were killed and over two hundred individuals were injured.

8. The explosions had a substantial impact on interstate and foreign commerce. Among other things, they forced a premature end to the Marathon and the evacuation and temporary closure of numerous businesses along Boylston Street for several days.

B. Surveillance Evidence

9. I have reviewed videotape footage taken from a security camera located on Boylston Street near the corner of Boylston and Gloucester Streets. At approximately 2:38 p.m. (based on the video's duration and timing of the explosions) -- i.e., approximately 11 minutes before the first explosion -- two young men can be seen turning left (eastward) onto Boylston from Gloucester Street. Both men are carrying large knapsacks. The first man, whom I refer to in this

affidavit as Bomber One, is a young male, wearing a dark-colored baseball cap, sunglasses, a white shirt, dark coat, and tan pants. The second man, whom I refer to in this affidavit as Bomber Two, is a young male, wearing a white baseball cap backwards, a gray hooded sweatshirt, a lightweight black jacket, and dark pants. As set forth below, there is probable cause to believe that Bomber One is Tamerlan Tsarnaev and Bomber Two is his brother, **DZHOKHAR TSARNAEV**.

10. After turning onto Boylston Street, Bomber One and Bomber Two can be seen walking eastward along the north side of the sidewalk towards the Marathon finish line. Bomber One is in front and Bomber Two is a few feet behind him. Additional security camera video taken from a location farther east on Boylston Street, as well as contemporaneous photographs taken from across the street, show the men continuing to walk together eastward along Boylston Street towards Fairfield Street.

11. I have also reviewed video footage taken from a security camera affixed above the doorway of the Forum Restaurant located at 755 Boylston Street, which was the site of the second explosion. This camera is located approximately midway between Fairfield and Exeter Streets and points out in the direction of Boylston and is turned slightly towards Fairfield. At approximately 2:41 p.m. (based on the video's duration and the timing of the explosions), Bomber One and Bomber Two can be seen standing together approximately one half-block from the restaurant.

12. At approximately 2:42 p.m. (i.e., approximately seven minutes before the first explosion), Bomber One can be seen detaching himself from the crowd and walking east on Boylston Street towards the Marathon finish line. Approximately 15 seconds later, he can be seen passing directly in front of the Forum Restaurant and continuing in the direction of the location where the first explosion occurred. His knapsack is still on his back.

13. At approximately 2:45 p.m., Bomber Two can be seen detaching himself from the crowd and walking east on Boylston Street toward the Marathon finishing line. He appears to have the thumb of his right hand hooked under the strap of his knapsack and a cell phone in his left hand. Approximately 15 seconds later, he can be seen stopping directly in front of the Forum Restaurant and standing near the metal barrier among numerous spectators, with his back to the camera, facing the runners. He then can be seen apparently slipping his knapsack onto the ground. A photograph taken from the opposite side of the street shows the knapsack on the ground at Bomher Two's feet.

14. The Forum Restaurant video shows that Bomber Two remained in the same spot for approximately four minutes, occasionally looking at his cell phone and once appearing to take a picture with it. At some point he appears to look at his phone, which is held at approximately waist level, and may be manipulating the phone. Approximately 30 seconds before the first explosion, he lifts his phone to his ear as if he is speaking on his cell phone, and keeps it there for approximately 18 seconds. A few seconds after he finishes the call, the large crowd of people around him can be seen reacting to the first explosion. Virtually every head turns to the east (towards the finish line) and stares in that direction in apparent bewilderment and alarm. Bomber Two, virtually alone among the individuals in front of the restaurant, appears calm. He glances to the east and then calmly but rapidly begins moving to the west, away from the direction of the finish line. He walks away without his knapsack, having left it on the ground where he had been standing. Approximately 10 seconds later, an explosion occurs in the location where Bomber Two had placed his knapsack.

15. I have observed video and photographic footage of the location where the second explosion occurred from a number of different viewpoints and angles, including from directly

across the street. I can discern nothing in that location in the period before the explosion that might have caused that explosion, other than Bomber Two's knapsack.

C. Photographic Identifications

16. I have compared a Massachusetts Registry of Motor Vehicles ("RMV") photograph of **DZHOKHAR TSARNAEV** with photographic and video images of Bomber Two, and I believe, based on their close physical resemblance, there is probable cause that they are one and the same person. Similarly, I have compared an RMV photograph of Tamerlan Tsarnaev with photographic and video images of Bomber One, and I likewise believe that they are one and the same person.

D. The Bombers Emerge

17. I base the allegations set forth in paragraphs 18 through 27 on information that has been provided to me by fellow law enforcement officers, including members of the JTTF and state and local law enforcement who responded to the crime scenes, as well as on publicly available information that I deem reliable.

18. At approximately 5:00 p.m. on April 18, 2013, the FBI published video and photographic images of Bomber One and Bomber Two on its web site. Those images were widely rebroadcast by media outlets all over the country and the world.

19. Near midnight on April 18, 2013, an individual carjacked a vehicle at gunpoint in Cambridge, Massachusetts. A victim of the carjacking was interviewed by law enforcement and provided the following information. The victim stated that while he was sitting in his car on a road in Cambridge, a man approached and tapped on his passenger-side window. When the victim rolled down the window, the man reached in, opened the door, and entered the victim's vehicle. The man pointed a firearm at the victim and stated, "Did you hear about the Boston

explosion?" and "I did that." The man removed the magazine from his gun and showed the victim that it had a bullet in it, and then re-inserted the magazine. The man then stated, "I am serious."

20. The man with the gun forced the victim to drive to another location, where they picked up a second man. The two men put something in the trunk of the victim's vehicle. The man with the gun took the victim's keys and sat in the driver's seat, while the victim moved to the front passenger seat. The second man entered the victim's vehicle and sat in the rear passenger seat. The man with the gun and the second man spoke to each other in a foreign language.

21. While they were driving, the man with the gun demanded money from the victim, who gave the man 45 dollars. One of the men compelled the victim to hand over his ATM card and password. They then drove to an ATM machine and attempted to withdraw money from the victim's account. The two men and the victim then drove to a gas station/convenience store in the vicinity of 816 Memorial Drive, Cambridge. The two men got out of the car, at which point the victim managed to escape.

22. A short time later, the stolen vehicle was located by law enforcement in Watertown, Massachusetts. As the men drove down Dexter Street in Watertown, they threw at least two small improvised explosive devices ("IEDs") out of the car. A gun fight ensued between the car's occupants and law enforcement officers in which numerous shots were fired. One of the men was severely injured and remained at the scene; the other managed to escape in the car. That car was later found abandoned a short distance away, and an intact low-grade explosive device was discovered inside it. In addition, from the scene of the shootout on Laurel Street in Watertown, the FBI has recovered two unexploded IEDs, as well as the remnants of numerous exploded IEDs.

E. Identification of the Carjackers

23. I have reviewed images of two men taken at approximately 12:17 a.m. by a security camera at the ATM and the gas station/convenience store where the two carjackers drove with the victim in his car. Based on the men's close physical resemblance to RMV photos of Tamerlan and **DZHOKHAR TSARNAEV**, I believe the two men who carjacked, kidnapped, and robbed the victim are Tamerlan and **DZHOKHAR TSARNAEV**. In addition, the carjaeker who was severely injured during the shoot-out in Watertown was taken to Beth Israel Hospital, where he was pronounced dead. FBI fingerprint analysis confirms that he is Tamerlan Tsarnaev, and the man's face matches the RMV photograph of Tamerlan Tsarnaev. RMV records indicate that Tamerlan Tsarnaev and **DZHOKHAR TSARNAEV** share the same address on Norfolk Street in Cambridge, Massachusetts. According to Department of Homeland Security immigration records, Tamerlan Tsarnaev and **DZHOKHAR TSARNAEV** are brothers. Tamerlan Tsarnaev was a Lawful Permanent Resident. **DZHOKHAR TSARNAEV** entered the United States on April 12, 2002, and is a naturalized U.S. citizen.

F. Preliminary Examination of the Explosives

24. A preliminary examination of the remains of the explosive devices that were used at the Boston Marathon revealed that they were low-grade explosives that were housed in pressure cookers. Both pressure cookers were of the same brand. The pressure cookers also contained metallic BBs and nails. Many of the BBs were contained within an adhesive material. The explosives contained green-colored hobby fusc.

25. A preliminary examination of the explosive devices that were discovered at the scene of the shootout in Watertown and in the abandoned vehicle has revealed similarities to the

explosives used at the Boston Marathon. The remnants of at least one of the exploded IEDs at the scene of the shootout indicate that a low-grade explosive had been contained in a pressure cooker. The pressure cooker was of the same brand as the ones used in the Marathon explosions. The explosive also contained metallic BBs contained within an adhesive material as well as green-colored hobby fuse. The intact low-grade explosive device found in the abandoned car was in a plastic container and wrapped with green-colored hobby fuse.

G. **DZHOKHAR TSARNAEV** is Located

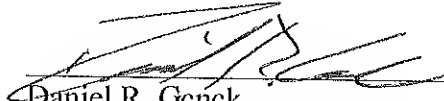
26. On the evening of April 19, 2013, police investigation revealed that there was an individual in a covered boat located at 67 Franklin Street in Watertown. After a stand-off between the boat's occupant and the police involving gunfire, the individual was removed from the boat and searched. A University of Massachusetts at Dartmouth identification card, credit cards, and other forms of identification were found in his pockets. All of them identified the man as **DZHOKHAR TSARNAEV**. He had visible injuries, including apparent gunshot wounds to the head, neck, legs, and hand. **DZHOKHAR TSARNAEV**'s wounds were triaged and he was brought to an area hospital, where he remains for medical treatment.

27. On April 21, 2013, the FBI searched **DZHOKHAR TSARNAEV**'s dormitory room at 7341 Pine Dale Hall at the University of Massachusetts at Dartmouth, pursuant to a search warrant. The FBI seized from his room, among other things, a large pyrotechnic, a black jacket and a white hat of the same general appearance as those worn by Bomber Two at the Boston Marathon on April 15, 2013, and BBs.

CONCLUSION

28. Based on the foregoing, there is probable cause to believe that on or about April 15, 2013, **DZHOKHAR TSARNAEV** violated 18 U.S.C. §§ 2332a (using and conspiring to use a

weapon of mass destruction, resulting in death) and 844(i) (malicious destruction of property by means of an explosive device, resulting in death). Accordingly, I respectfully request that the Court issue a complaint charging **DZHOKHAR TSARNAEV** with those crimes.


Daniel R. Genck
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 21st day of April 2013.


UNITED STATES MAGISTRATE JUDGE

MARIANNE B. BOWLER